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USPTO GPAU 2623

FROM: Jeffrey G. Toler
Reg. No.: 38,342

RE U.S. App. No.: 10/696,395, filed October 29, 2003

Applicant(s): Larry B. Pearson, et al.

Atty Dkt No.: 1033-MS1001

Title: SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION

NO. OF PAGES (including Cover Sheet): 26

MESSAGE:

Attached please find:

- Transmittal Form (1 pg)
- Fee Transmittal (in duplicate) (2 pgs)
- Brief in Support of Appeal (22 pgs)

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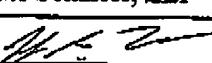
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26

Application Number	10/696,395
Filing Date	October 29, 2003
First Named Inventor	Larry B. Pearson, et al.
Art Unit	2623
Examiner Name	BELIVEAU, Scott E.
Total Number of Pages in This Submission	1033-MS1001

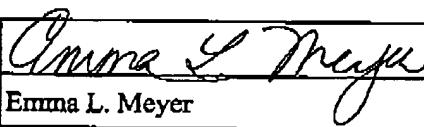
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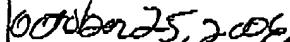
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**FEE TRANSMITTAL
For FY 2006** Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

500.00

Complete if Known

Application Number	10/696,395
Filing Date	October 29, 2003
First Named Inventor	Larry B. Pearson, et al.
Examiner Name	BELIVEAU, Scott E.
Art Unit	2623
Attorney Docket No.	1033-MS1001

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

- Each claim over 20 (including Reissues)
Each independent claim over 3 (including Reissues)
Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Small Entity Fee (\$)	Fee (\$)	Fee Paid (\$)
- 20 or HP =	x	=		50	25	

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP =	x	=				

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3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

4. OTHER FEE(S)

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Other (e.g., late filing surcharge): Brief in Support of Appeal Fee

Fees Paid (\$)

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Signature		Registration No. (Attorney/Agent) 38,342	Telephone 512/327-5515
Name (Print/Type)	Jeffrey G. Toler		Date 10-25-2006

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): **Larry B. Pearson, et al.**

Title: **SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION**

App. No.: **10/696,395** Filed: **October 29, 2003**

Examiner: **BELIVEAU, Scott E.** Group Art Unit: **2623**

Atty. Dkt. No.: **1033-MS1001** Confirmation No.: **6395**

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BRIEF IN SUPPORT OF APPEAL

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I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The Real Party in Interest in the present Appeal is **SBC Knowledge Ventures, L.P.**, the assignee, of patent application no. 10/696,395, as evidenced by the assignment set forth at Reel 014450, Frame 0128.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, Appellants are not aware of any such appeals or interferences.

III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))**A. Total Number of Claims in Application**

There are 31 claims pending in the application (claims 1-10, 20-24, 26-29, and 31-42).

B. Status of All the Claims

Claims 1, 20, 29, and 40 are independent claims. According to paragraphs 5, 6, 7, 8, 9, 10 and 11 of the Final Office Action dated July 11, 2006 ("the Final Office Action"), Claims 1-10, 20-24, 26-29, and 31-42 stand rejected, and are hereby appealed.

C. Claims on Appeal

There are 31 claims on appeal (claims 1-10, 20-24, 26-29, and 31-42).

IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

The claims hereby Appealed are based on the claims as amended in the Response to Office Action filed July 3, 2006, in response to the Office Action dated May 8, 2006. No amendment was offered or entered after the Final Office Action.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

The subject matter of claim 1 can be summarized as follows:

A video distribution system is provided. The video distribution system includes a receiver operable to receive a multiplexed signal. The multiplexed signal includes a plurality of encoded video information streams. The system also includes a first decoder communicatively coupled to the receiver and operable to decode a first video information stream of the multiplexed signal. The system also includes a second decoder communicatively coupled to the receiver and operable to decode a second video information stream of the multiplexed signal. The system also includes a combiner operable to output a composite signal for communication via a premise network. The composite signal includes a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. The system also includes a remote control mechanism operable to communicate a request signal to the first decoder requesting that the first decoder decode a different video information stream of the multiplexed signal. The system also includes an access engine to authenticate that a user of the remote control mechanism is associated with the first radio frequency band.

Claim 1 finds support at least in paragraphs [1014], [1018]-[1021], [1030] and [1036]-[1038] of the specification.

The subject matter of claim 20 can be summarized as follows:

A video distribution system is provided. The video distribution system includes a plurality of remote controllable channel output modules, each configured to output a

signal modulated to an assigned frequency block associated with a particular user. The signal represents a decoded version of a selected MPEG video stream. The system also includes an access engine to authenticate a user of a remote control mechanism. The access engine authenticates that the user is associated with the assigned frequency block. The system also includes a premise network interface operable to output a composite signal to a premise network. The composite signal includes a modulated signal from at least one of the plurality of remote controllable channel output modules.

Claim 20 finds support at least in paragraphs [1010]-[1014], [1017], [1020] and [1036]-[1038] of the specification.

The subject matter of claim 29 can be summarized as follows:

A method of facilitating video distribution is provided. The method includes linking a plurality of users with associated carrier frequencies. The method also includes receiving a first command from a first user. The method also includes authenticating that the first user is associated with a first carrier frequency. The method further includes modulating a decoded video stream identified by the first command on the first carrier frequency. The method also includes outputting the modulated stream to a premise network such that the first user can access the modulated stream by tuning a premise network connected television to the first carrier frequency.

Claim 29 finds support at least in paragraphs [1018]-[1022] and [1036]-[1038] of the specification.

The subject matter of claim 40 can be summarized as follows:

A method including linking a plurality of users with associated carrier frequencies is provided. The method also includes receiving a request for media content from a first user. The method further includes modulating the media content on a carrier frequency associated with the first user. The method also includes outputting the media content on the carrier frequency to a premise network such that the first user can access the media

content by tuning a premise network connected device to the carrier frequency associated with the first user.

Claim 40 finds support at least in paragraphs [1018]-[1022] and [1036]-[1038] of the specification.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

A. Claims 1, 2, 4, 6-10, 20, 22, 24, 26-28, 34, 36, and 40 are rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 6,978,474 ("Sheppard") in view of U.S. Patent Application Publication No. 2005/0251827 ("Ellis").

B. Claims 3, 5, 37, and 38 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent No. 6,762,733 ("Kolde").

C. Claim 23 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of Applicant's Admission of fact ("APA").

D. Claims 29, 31-33, 39, and 41 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent Application Publication No. 2002/0078442 ("Reyes").

E. Claim 21 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent No. 6,493,875 ("Eames").

F. Claim 35 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of U.S. Patent Application Publication No. 2003/0028872 ("Milovanovic").

G. Claim 42 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Sheppard in view of Ellis and further in view of Reyes.

VII. ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

Appellant respectfully appeals each of the rejections applied against all claims now pending on appeal.

A. Claims 1, 2, 4, 6-10, 20, 22, 24, 26-28, 34, 36, and 40 Are Allowable over Sheppard in View of Ellis

Appellant traverses the rejection of claims 1, 2, 4, 6-10, 20, 22, 24, 26-28, 34, 36, and 40 under 35 U.S.C. 103 (a) over Sheppard in view of Ellis at page 4, paragraph 5 of the Final Office Action.

There are four independent claims in the case. Each independent claim stands or falls independently. Arguments demonstrating the allowability of each independent claim are presented herein.

The Final Office Action failed to establish a *prima facie* case of obviousness, which requires:

- 1) there must be a suggestion or motivation to make the asserted combination, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art;
- 2) there must be a reasonable expectation of success; and
- 3) the alleged combination teach or suggest all the claim limitations.

See M.P.E.P. §2142.

Appellant submits that the asserted combinations fail to disclose or suggest the particular combination of elements recited in the claims.

Independent claim 1 recites “a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user.” Regarding this element of claim 1, the Final Office Action states that Sheppard discloses particular televisions each associated with or assigned radio frequencies. *Final Office Action*, p. 5. However, as the Final Office Action notes, Sheppard fails to disclose the existence of frequency

bands being associated with particular users. *Final Office Action*, p. 5. To overcome this deficiency in Sheppard, the Final Office Action cites Ellis, stating that Ellis discloses a video distribution system wherein a plurality of users within a household are associated with a plurality of televisions. *Final Office Action*, p. 5. The Final Office Action asserts that the televisions associated with or assigned radio frequencies of Sheppard in combination with the alleged plurality of users associated with televisions of Ellis discloses a first radio frequency band associated with a first user and a second radio frequency band associated with a second user, as recited in claim 1. *Final Office Action*, pp. 5-6.

In fact, Ellis does not disclose or suggest a video distribution system wherein a plurality of users within a household are associated with a plurality of televisions. Rather, Ellis discloses a video distribution system wherein a plurality of televisions are associated with particular locations. For example, in Figures 11, 13, 14, 17, 18a, 18b, 19, 21, 23, 24 27, 28, 31, 32, and 33, and the descriptions thereof, Ellis consistently refers to televisions assigned to locations. Particularly, Figures 11 and 31 include set up screens allowing a user to assign a television to a location and to name the location. See *Ellis*, ¶ [0092].

Additionally, the names given to the rooms in Ellis are arbitrary names for rooms associated with each television and thus do not associate a television with a particular user. *Id.* For example, the room labeled "Guest Room" in Ellis, could have been given any name, such as "Northeast Corner Bedroom" or "Room 2" without changing the function of Ellis. This point is further illustrated by Figure 11 where one of the locations is named "Living Room", which is clearly not a name that associates a television with a user, but rather a name that associates the television with a location. Nowhere does Ellis disclose associating a television with a particular user.

Since neither Sheppard nor Ellis disclose or suggest frequency bands associated with particular users, the asserted combination of Sheppard and Ellis does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user, as recited in claim 1. Claim 1 is therefore

allowable over the combination of Sheppard and Ellis because the asserted combination does not disclose or suggest each and every element of claim 1.

Additionally, the asserted combination of Sheppard and Ellis fails to establish a *prima facie* case of obviousness with regard to claims 2, 4, 6-10, 34, and 36 at least in light of their dependence from claim 1. Therefore, claims 2, 4, 6-10, 34, and 36 are allowable, and the rejection of claims 2, 4, 6-10, 34, and 36 over the asserted combination of Sheppard and Ellis should be withdrawn.

Independent claim 20 recites "a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user." Regarding this element of claim 20, the Final Office Action states that Sheppard discloses particular televisions each associated with or assigned radio frequencies. *Final Office Action*, p. 8. However, as the Final Office Action notes, Sheppard fails to disclose the existence of frequency blocks associated with particular users. *Final Office Action*, p. 8. To overcome this deficiency in Sheppard, the Final Office Action cites Ellis, stating that Ellis discloses a video distribution system wherein a plurality of users within a household are associated with a plurality of television. *Final Office Action*, p. 8. The Final Office Action asserts that the televisions associated with or assigned radio frequencies of Sheppard in combination with the alleged plurality of users associated with televisions of Ellis discloses an assigned frequency block associated with a particular user, as recited in claim 20. *Final Office Action*, pp. 8-9.

In fact, Ellis does not disclose or suggest a video distribution system wherein a plurality of users within a household are associated with a plurality of televisions. Rather, Ellis discloses a video distribution system wherein a plurality of televisions are associated with particular locations. For example, in Figures 11, 13, 14, 17, 18a, 18b, 19, 21, 23, 24 27, 28, 31, 32, and 33, and the descriptions thereof, Ellis consistently refers to televisions assigned to locations. Particularly, Figures 31 and 11 include set up screens allowing a user to assign a television to a location and to name the location. *See Ellis, ¶ [0092].*

Additionally, the names given to the rooms in Ellis are arbitrary names for rooms associated with each television and thus do not associate a television with a particular user. *Id.*

For example, the room labeled "Guest Room" in Ellis, could have been given any name, such as "Northeast Corner Bedroom" or "Room 2" without changing the function of Ellis. This point is further illustrated by Figure 11 where one of the locations is named "Living Room", which is clearly not a name intended to associate a television with a user, but rather to associate the television with a location. Nowhere does Ellis disclose associating a television to a particular user.

Since neither Sheppard nor Ellis discloses or suggests frequency blocks associated with particular users, the asserted combination of Sheppard and Ellis does not disclose or suggest a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user, as recited in claim 20. Claim 20 is therefore allowable over the combination of Sheppard and Ellis because the asserted combination does not disclose or suggest each and every element of claim 20.

Additionally, the asserted combination of Sheppard and Ellis fails to establish a *prima facie* case of obviousness with regard to claims 22, 24, and 26-28 at least in light of their dependence from claim 20. Therefore, claims 22, 24, and 26-28 are allowable, and the rejection of claims 22, 24, and 26-28 over the asserted combination of Sheppard and Ellis should be withdrawn.

Independent claim 40 recites "linking a plurality of users with associated carrier frequencies." Regarding this element of claim 40, the Final Office Action acknowledges that Sheppard fails to disclose linking a plurality of users with associated carrier frequencies. *Final Office Action*, p. 11. To overcome this deficiency in Sheppard, the Final Office Action cites Ellis, stating that Ellis discloses a method wherein "a plurality of users within a household are associated with a plurality of televisions such that the system may be configured so as to 'link a plurality of users' with particular televisions." *Final Office Action*, p. 11, citations omitted.

In fact, Ellis does not disclose or suggest a method wherein a plurality of users within a household are associated with a plurality of televisions. Rather, Ellis discloses a video distribution system wherein a plurality of televisions are associated with particular locations. For example, in Figures 11, 13, 14, 17, 18a, 18b, 19, 21, 23, 24 27, 28, 31, 32, and 33, and the descriptions thereof, Ellis consistently refers to televisions assigned to locations. Particularly,

Figures 11 and 31 include set up screens allowing a user to assign a television to a location and to name the location. *See Ellis, ¶ [0092].*

Additionally, the names given to the rooms in Ellis are arbitrary names for rooms associated with each television and thus do not associate a television with a particular user. *Id.* For example, the room labeled "Guest Room" in Ellis, could have been given any name, such as "Northeast Corner Bedroom" or "Room 2" without changing the function of Ellis. This point is further illustrated by Figure 11 where one of the locations is named "Living Room", which is clearly not a name intended to associate a television with a user, but rather to associate the television with a location. Nowhere does Ellis disclose associating a television to a particular user.

Since neither Sheppard nor Ellis discloses or suggests frequency blocks associated with particular users, the asserted combination of Sheppard and Ellis does not disclose or suggest a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user, as recited in claim 40. Claim 40 is therefore allowable over the combination of Sheppard and Ellis because the asserted combination does not disclose or suggest each and every element of claim 40.

B. Claims 3, 5, 37, and 38 Are Allowable over Sheppard, Ellis and Kolde

Appellant traverses the rejections of claims 3, 5, 37, and 38 under 35 U.S.C. 103 (a) over Sheppard in view of Ellis and further in view of Kolde at page 12, paragraph 6 of the Final Office Action.

Claims 3, 5, 37 and 38 depend from claim 1. As discussed above, the combination of Sheppard and Ellis does not disclose or suggest each and every element of claim 1. For example, the combination of Sheppard and Ellis does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user, as recited in claim 1.

Kolde discloses a system and method wherein icons representing a plurality of interactive options periodically become available within an interactive television system. However, Kolde

does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. Thus, the asserted combination of Sheppard, Ellis and Kolde does not disclose or suggest each and every element of claim 1. Claims 3, 5, 37 and 38, which depend from claim 1, are therefore allowable.

Additionally, claim 37 recites wherein the remote control mechanism is a wireless telephone. The Final Office Action relies on Kolde to disclose this element of claim 37 stating that "Claim 37 is rejected in light of the aforementioned combination wherein the remote control mechanism is a wireless telephone" (Kolde et al., Col. 5, Lines 48-57). Kolde, at column 5, lines 48-57 states:

The various components of the remote control 106 may be positioned in different locations for functionality and ergonomics. For example, as shown in FIG. 2, the speaker 244 may be positioned near the "top" of the remote control 106 (when viewed from the perspective of FIG. 2) and the microphone 242 may be positioned at the "bottom" of the remote control 106. Thus, in one embodiment, a user may conveniently position the speaker 244 near the user's ear and the microphone 242 near the user's mouth in order to operate the remote control 106 in the manner of a telephone. *Kolde*, col. 5, lines 48-57

That is, Kolde discloses placing a speaker and a microphone on a remote control similar to the positioning of a speaker and a microphone on a telephone. Kolde discloses that the microphone is to "capture an audio signal" and that the audio signal may be transmitted to the set-top box. *Kolde*, col. 5, lines 41-44. Kolde also discloses that the speaker may generate audible output from an audio signal received from the set-top box. *Kolde*, col. 5, lines 44-47. However, Kolde does not disclose or suggest that the remote control mechanism is capable of receiving wireless telephone service and performing other functions of a wireless telephone, merely that components of the remote control mechanism are arranged like a telephone in that a speaker and microphone may be placed ergonomically on the remote control mechanism. Sheppard and Ellis also do not disclose or suggest a remote control mechanism that is a wireless telephone. Thus, the combination of Sheppard, Ellis and Kolde does not disclose or suggest a

remote control mechanism that is a wireless telephone. Since the asserted combination does not disclose each and every element of claim 37, claim 37 is allowable.

C. Claim 23 Is Allowable over Sheppard, Ellis and APA

Appellant traverses the rejection of claim 23 under 35 U.S.C. 103 (a) over Sheppard in view of Ellis and further in view of APA at page 13, paragraph 7 of the Final Office Action.

Claim 23 depends from claim 20. As discussed above, the combination of Sheppard and Ellis does not disclose or suggest each and every element of claim 20. For example, the combination of Sheppard and Ellis does not disclose or suggest a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user, as recited in claim 20. The APA asserted by the Final Office Action also does not disclose or suggest a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user. Thus, the asserted combination of Sheppard, Ellis and APA does not disclose or suggest each and every element of claim 20. Claim 23, which depend from claim 20, are therefore allowable.

D. Claims 29, 31-33, 39 and 41 Are Allowable over Sheppard, Ellis and Reyes

Appellant traverses the rejection of claims 29, 31-33, and 39 under 35 U.S.C. 103 (a) over Sheppard in view of Ellis and further in view of Reyes at page 14, paragraph 8 of the Final Office Action.

Independent claim 29 recites "linking a plurality of users with associated carrier frequencies." The Final Office Action states that Sheppard discloses a distribution method which "links ...users with associated carrier frequencies" associated with the particular television being viewed. *Final Office Action*, p. 14. However, regarding a similar element recited in claim 40, the Final Office Action acknowledges that Sheppard fails to disclose linking a plurality of users with associated carrier frequencies. *Final Office Action*, p. 11. As has been previously stated, neither Sheppard nor Ellis, alone or in combination, disclose or suggest associating carrier frequencies with users.

Reyes discloses an entertainment system and method for controlling the transmission of control information to an input device. *Reyes*, Abstract. However, Reyes does not disclose or suggest linking a plurality of users with associated carrier frequencies, as recited by claim 29. Therefore, claim 29 is allowable.

Additionally, claim 29 recites authenticating that the first user is associated with a first carrier frequency. The Final Office Action relies on Reyes to disclose authenticating that the first user is associated with a first carrier frequency as recited in claim 29. *Final Office Action*, p. 15. What Reyes actually discloses is using a password to unlock a remote control. *Reyes*, p. 2, ¶[0028]. Using a password to unlock a remote control does not disclose or suggest authenticating that the first user is associated with a first carrier frequency as recited in claim 29. Thus, claim 29 is allowable for this reason as well. Claims 31-33 and 39 are also allowable at least in light of their dependence from claim 29.

E. Claim 21 Is Allowable over Sheppard, Ellis and Eames

Appellant traverses the rejection of claim 21 under 35 U.S.C. 103 (a) over Sheppard in view of Ellis and further in view of Eames at page 18, paragraph 9 of the Final Office Action.

Claim 21 depends from claim 20. As discussed above, the combination of Sheppard and Ellis does not disclose or suggest each and every element of claim 20. For example, the combination of Sheppard and Ellis does not disclose or suggest a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user, as recited in claim 20. Eames also does not disclose or suggest a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user. Thus, the asserted combination of Sheppard, Ellis and Eames does not disclose or suggest each and every element of claim 20. Claim 21, which depends from claim 20, is therefore allowable.

F. Claim 35 Is Allowable over Sheppard, Ellis and Milovanovic

Appellant traverses the rejection of claim 35 under 35 U.S.C. 103 (a) over Sheppard in view of Ellis and further in view of Milovanovic at page 19, paragraph 10 of the Final Office Action.

Claim 35 depends from claim 1. As discussed above, the combination of Sheppard and Ellis does not disclose or suggest each and every element of claim 1. For example, the combination of Sheppard and Ellis does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user, as recited in claim 1. Milovanovic also does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. Thus, the asserted combination of Sheppard, Ellis and Milovanovic does not disclose or suggest each and every element of claim 1. Claim 35, which depends from claim 1, is therefore allowable.

G. Claim 42 Is Allowable over Sheppard, Ellis and Reyes

Appellant traverses the rejection of claim 42 under 35 U.S.C. 103 (a) over Sheppard in view of Ellis and further in view of Reyes at page 19, paragraph 11 of the Final Office Action.

Claim 42 depends from claim 40. As discussed above, the combination of Sheppard and Ellis does not disclose or suggest each and every element of claim 40. For example, the combination of Sheppard and Ellis does not disclose or suggest linking a plurality of users with associated carrier frequencies, as recited in claim 40. Reyes also does not disclose or suggest linking a plurality of users with associated carrier frequencies. Thus, the asserted combination of Sheppard, Ellis and Reyes does not disclose or suggest each and every element of claim 40. Claim 42, which depends from claim 40, is therefore allowable.

For at least the foregoing reasons, Appellant respectfully submits that all of the pending claims of the present application are allowable. In view of the arguments presented above, Appellant respectfully requests reconsideration and allowance of the application.

VIII. CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))

The text of each claim involved in the appeal is as follows:

1. (Previously Presented) A video distribution system comprising:
 - a receiver operable to receive a multiplexed signal comprising a plurality of encoded video information streams;
 - a first decoder communicatively coupled to the receiver and operable to decode a first video information stream of the multiplexed signal;
 - a second decoder communicatively coupled to the receiver and operable to decode a second video information stream of the multiplexed signal;
 - a combiner operable to output a composite signal for communication via a premise network, the composite signal comprising a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user;
 - a remote control mechanism operable to communicate a request signal to the first decoder requesting that the first decoder decode a different video information stream of the multiplexed signal; and
 - an access engine to authenticate that a user of the remote control mechanism is associated with the first radio frequency band.
2. (Original) The system of claim 1, further comprising:
 - a diplexer operable to distinguish between upstream and downstream communication flow, the diplexer further operable to output the multiplexed signal to the receiver; and
 - a modem communicatively coupled to the diplexer and operable to output data traffic to the diplexer.
3. (Original) The system of claim 1, wherein the remote control mechanism is further operable to communicate using a wireless local area network communication protocol.

4. (Original) The system of claim 1, further comprising a radio frequency communication module operable to support at least a portion of a communication path interconnecting the remote control and the first decoder.

5. (Original) The system of claim 1, further comprising:
a network interface operable to provide at least a portion of a communication path interconnecting the receiver and a wide area communication network; and
a communication module having a local area wireless transceiver.

6. (Original) The system of claim 1, wherein the premise network comprises installed coaxial cable.

7. (Original) The system of claim 1, further comprising a modem device selected from the group consisting of a cable modem, a dial-up modem, a wireless modem, a satellite modem, and an xDSL modem.

8. (Previously presented) The system of claim 1, further comprising a messaging engine operable to initiate communication of message information via the premise network, wherein the message information represents a message sent using a service selected from the group consisting of electronic mail, mobile alerts, IM, SMS, EMS, and MMS.

9. (Original) The system of claim 1, further comprising a metric engine operable to track a metric associated with the first video information stream, wherein the metric is selected from the group consisting of a video stream content rating, an amount of time associated with outputting the decoded first video information stream, a cost associated with viewing the first video information stream, and an assigned programming channel for the first video information stream.

10. (Original) The system of claim 1, further comprising a graphical user interface (GUI) engine operable to initiate presentation of a GUI on a television display communicatively coupled to the premise network.

11-19 (Canceled)

20. (Previously Presented) A video distribution system, comprising:
a plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block associated with a particular user, the signal representing a decoded version of a selected MPEG video stream;
an access engine to authenticate a user of a remote control mechanism, wherein the access engine authenticates that the user is associated with the assigned frequency block; and
a premise network interface operable to output a composite signal to a premise network, the composite signal comprising a modulated signal from at least one of the plurality of remote controllable channel output modules.

21. (Original) The system of claim 20, wherein the premise network comprises a wireless local area network.

22. (Original) The system of claim 20, wherein the premise network comprises coaxial cable.

23. (Original) The system of claim 20, wherein the assigned frequency block for a first of the remote controllable channel output modules comprises a range of approximately 60 to 66 MHz, the assigned frequency block for a second of the remote controllable channel output modules comprises a range of approximately 66 to 72 MHz, and the assigned frequency block for a third of the remote controllable channel output modules comprises a range of approximately 76 to 82 MHz.

24. (Original) The system of claim 20, wherein the assigned frequency blocks correspond to portions of the Very High Frequency spectrum assigned to television channels.

25. (Canceled)

26. (Original) The system of claim 20, further comprising a first remote controllable channel output module fixed to output information to one assigned frequency block.

27. (Original) The system of claim 20, further comprising a table mapping each of a plurality of viewers to at least one assigned frequency block.

28. (Original) The system of claim 20, further comprising a graphical user interface (GUI) engine operable to initiate presentation of a GUI on a television display communicatively coupled to the premise network, wherein the GUI engine is further operable to initiate display of a GUI element indicating video programs represented by the selected MPEG video stream output by each of the plurality of remote controllable channel output modules.

29. (Previously Presented) A method of facilitating video distribution, comprising:
linking a plurality of users with associated carrier frequencies;
receiving a first command from a first user;
authenticating that the first user is associated with a first carrier frequency;
modulating a decoded video stream identified by the first command on the first carrier frequency; and
outputting the modulated stream to a premise network such that the first user can access the modulated stream by tuning a premise network connected television to the first carrier frequency.

30. (Canceled)

31. (Previously Presented) The method of claim 29, further comprising:
receiving a second command from a second user;
modulating a second decoded video stream identified by the second command on a second carrier frequency, wherein the second carrier frequency is associated with the second user; and

outputting the modulated second stream to the premise network such that the second user can access the modulated stream by tuning a given premise network connected television to the second carrier frequency.

32. (Original) The method of claim 29, further comprising tracking a viewing metric of the first user.

33. (Original) The method of claim 29, further comprising disabling access to a certain video stream for at least one of the plurality of users.

34. (Previously Presented) The system of claim 1, wherein the access engine employs a password authentication scheme.

35. (Previously Presented) The system of claim 1, wherein the access engine employs a biometric authentication scheme.

36. (Previously Presented) The system of claim 1, wherein the access engine employs a device based authentication scheme.

37. (Previously Presented) The system of claim 1, wherein the remote control mechanism is a wireless telephone.

38. (Previously Presented) The system of claim 37, wherein the remote control mechanism has Bluetooth functionality.

39. (Previously Presented) The method of claim 31, further comprising: authenticating that the second user is associated with the second carrier frequency.

40. (Previously Presented) A method, comprising:
linking a plurality of users with associated carrier frequencies;
receiving a request for media content from a first user;
modulating the media content on a carrier frequency associated with the first user; and
outputting the media content on the carrier frequency to a premise network such that the
first user can access the media content by tuning a premise network connected
device to the carrier frequency associated with the first user.

41. (Previously Presented) The method of claim 40, further comprising:
authenticating that the first user is associated with a first carrier frequency; and
allowing only the first user to request different media content for the first carrier
frequency.

42. (Previously Presented) The method of claim 41, further comprising:
comparing the request for the media content to a block list associated with the first carrier
frequency;
notifying the first user that the requested media content will not be displayed.

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IX. EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

(N/A)

X. RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(c)(1)(x))

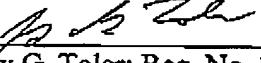
(N/A)

XI. CONCLUSION

For at least the above reasons, all pending claims are allowable and a notice of allowance is courteously solicited. Please direct any questions or comments to the undersigned attorney at the address indicated. Appellants respectfully request reconsideration and allowance of all claims and that this patent application be passed to issue.

Respectfully submitted,

10-25-2006
Date


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